

106TH CONGRESS
2D SESSION

H. R. 3906

To ensure that the Department of Energy has appropriate mechanisms to independently assess the effectiveness of its policy and site performance in the areas of safeguards and security and cyber security.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 2000

Mr. BLILEY (for himself, Mr. UPTON, Mr. BARTON of Texas, and Mr. BURR of North Carolina) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committees on Armed Services, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that the Department of Energy has appropriate mechanisms to independently assess the effectiveness of its policy and site performance in the areas of safeguards and security and cyber security.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OFFICE OF INDEPENDENT SECURITY OVER-**
4 **SIGHT.**

5 (a) OFFICE.—The Secretary of Energy shall main-
6 tain an Office of Independent Security Oversight, which

1 shall be headed by a Director appointed by the Secretary
2 without regard to political affiliation and solely on the
3 basis of integrity and demonstrated ability in the oversight
4 and evaluation of security for nuclear and classified pro-
5 grams. The Director shall report directly to and be under
6 the general supervision of the Secretary, but shall not re-
7 port to or be subject to supervision by any other office
8 of the Department of Energy. The Secretary shall not pre-
9 vent, prohibit, or delay the Director from initiating, car-
10 rying out, or completing any inspection, evaluation, or re-
11 port undertaken pursuant to this Act. Such Office shall
12 be responsible for carrying out the missions and functions
13 described in subsections (b) and (c).

14 (b) SAFEGUARDS AND SECURITY EVALUATIONS.—

15 (1) MISSION.—The Office of Independent Secu-
16 rity Oversight shall be responsible for the inde-
17 pendent evaluation of the effectiveness of safeguards
18 and security policies, practices, and programs
19 throughout the Department of Energy (including the
20 National Nuclear Security Administration), includ-
21 ing protection of special nuclear material, protection
22 of classified and sensitive information, personnel se-
23 curity, and foreign visits and assignments. The Of-
24 fice shall develop and validate reports that identify
25 findings and issues, and make recommendations for

1 improvement. It also shall perform timely followup
2 reviews to ensure that corrective actions are effec-
3 tive, and conduct complex-wide studies of security
4 issues and generic weaknesses in safeguards and se-
5 curity.

6 (2) FUNCTIONS.—The Office of Independent
7 Security Oversight shall perform the following func-
8 tions:

9 (A) Conduct regular evaluations, at least
10 once every 18 months at each site, of safe-
11 guards and security programs at Department of
12 Energy sites that have significant amounts of
13 special nuclear material, classified information,
14 or other security interests. The scope of the
15 evaluations shall include all aspects of safe-
16 guards and security, including physical protec-
17 tion of special nuclear material, accountability
18 of special nuclear material, protection of classi-
19 fied and sensitive information, personnel secu-
20 rity, and foreign visits and assignments.

21 (B) Perform regular assessments of nu-
22 clear materials assurance at Department of En-
23 ergy sites.

1 (C) Evaluate and assess Department of
2 Energy policies related to safeguards and secu-
3 rity.

4 (D) Perform timely followup reviews to en-
5 sure that corrective actions are effective.

6 (E) Perform complex-wide studies of issues
7 and generic weaknesses in safeguards and secu-
8 rity.

9 (F) Develop and validate reports that iden-
10 tify findings and issues, and make recommenda-
11 tions for improvement.

12 (G) Review other government and commer-
13 cial safeguards and security programs to pro-
14 vide a benchmark for Department of Energy
15 performance.

16 (H) Develop recommendations and oppor-
17 tunities for improving safeguards and security
18 for submittal to the Secretary.

19 (I) Any other function the Secretary con-
20 siders appropriate and consistent with the mis-
21 sion described in paragraph (1).

22 (c) CYBER SECURITY.—

23 (1) MISSION.—The Office of Independent Secu-
24 rity Oversight shall be responsible for the inde-
25 pendent evaluation of the effectiveness of classified

1 and unclassified computer security policies and pro-
2 grams throughout the Department of Energy (in-
3 cluding the National Nuclear Security Administra-
4 tion). This consists of establishing and maintaining
5 a continuous program for assessing Internet security
6 to include offsite scanning and controlled penetra-
7 tion attempts to detect vulnerabilities that could be
8 exploited by hackers. The Office shall also conduct
9 timely followup reviews to ensure that corrective ac-
10 tions are effective, and perform complex-wide studies
11 and analyses of events associated with computer se-
12 curity programs.

13 (2) FUNCTIONS.—The Office of Independent
14 Security Oversight shall perform the following func-
15 tions:

16 (A) Conduct regular evaluations of classi-
17 fied and unclassified computer security pro-
18 grams at Department of Energy sites, with
19 sites having significant amounts of special nu-
20 clear material, classified information, or other
21 security interests being evaluated at least once
22 every 18 months.

23 (B) Establish and maintain a continuous
24 program for assessing Internet security to in-
25 clude offsite scanning and controlled penetra-

1 tion attempts to detect vulnerabilities that could
2 be exploited by hackers and ensure they are
3 corrected by line management.

4 (C) Evaluate and assess Department of
5 Energy policies related to classified and unclas-
6 sified computer security.

7 (D) Perform timely followup reviews to en-
8 sure that corrective actions are effective.

9 (E) Perform complex-wide studies of issues
10 and generic weaknesses in computer security
11 programs.

12 (F) Develop and validate reports that iden-
13 tify findings and issues, and make recommenda-
14 tions for improvement.

15 (G) Review other government and commer-
16 cial computer security programs to provide a
17 benchmark for Department of Energy perform-
18 ance.

19 (H) Develop recommendations and oppor-
20 tunities for improving cyber security for sub-
21 mittal to the Secretary.

22 (I) Any other function the Secretary con-
23 siders appropriate and consistent with the mis-
24 sion described in paragraph (1).

1 **SEC. 2. REPORTS TO CONGRESS.**

2 (a) **REPORT BY OFFICE.**—The Office of Independent
3 Security Oversight shall, before February 15 of each year,
4 transmit to the Secretary of Energy and to the Congress
5 an unclassified report, with a classified appendix if re-
6 quested or necessary, summarizing the activities of the Of-
7 fice during the immediately preceding calendar year. Such
8 report shall include—

9 (1) an overview of the status of security at the
10 Department of Energy in the areas of responsibility
11 of that Office;

12 (2) a description of significant problems and de-
13 ficiencies, by site if applicable, identified in such se-
14 curity areas;

15 (3) a description of recommendations for cor-
16 rective action made by the Office during the report-
17 ing period with respect to significant problems or de-
18 ficiencies identified pursuant to paragraph (2);

19 (4) the adequacy of corrective actions, if any,
20 taken by the Department to address such problems
21 and deficiencies;

22 (5) an identification of each significant problem
23 or deficiency described in previous annual reports on
24 which corrective action has not been effectively com-
25 pleted;

1 (6) a summary of each significant report made
2 to the Secretary pursuant to this Act during the re-
3 porting period;

4 (7) a description and explanation of the reasons
5 for any significant revisions to security policy deci-
6 sions made during the reporting period; and

7 (8) a description of any significant security pol-
8 icy decision with which the Director is in disagree-
9 ment.

10 (b) REPORT BY SECRETARY.—The Secretary of En-
11 ergy shall, before March 15 of each year, transmit to the
12 Congress an unclassified report, with a classified appendix
13 if requested or necessary, summarizing the Secretary’s re-
14 sponse to the Office’s annual report submitted under sub-
15 section (a). Such report from the Secretary shall include—

16 (1) an identification of each significant prob-
17 lem, deficiency, or recommendation identified in the
18 Office’s annual report with which the Secretary is in
19 disagreement;

20 (2) an explanation of the reasons for any fail-
21 ure on the part of the Department of Energy to
22 complete effectively corrective actions recommended
23 by the Office in its previous annual reports; and

1 (3) a description of the Secretary's response to
2 each significant report made to the Secretary pursu-
3 ant to this Act during the reporting period.

4 (c) PUBLIC AVAILABILITY.—Within 60 days after the
5 transmission of the annual report of the Office of Inde-
6 pendent Security Oversight under subsection (a), the Sec-
7 retary of Energy shall make copies of the unclassified por-
8 tions of such report available to the public upon request
9 and at a reasonable cost. Within 60 days after the trans-
10 mission of the annual report of the Secretary under sub-
11 section (b), the Secretary shall make the unclassified por-
12 tions of such report available to the public upon request
13 and at a reasonable cost.

14 (d) SPECIAL REPORTS.—The Director of the Office
15 of Independent Security Oversight shall report imme-
16 diately to the Secretary of Energy and the Congress when-
17 ever the Director becomes aware of particularly serious or
18 flagrant problems or deficiencies relating to the security
19 programs, practices, or operations of the Department of
20 Energy. The Secretary shall, within 7 calendar days after
21 receiving a report under this subsection, report to Con-
22 gress on the corrective actions taken to address such prob-
23 lems.

24 (e) DIRECT REPORTING.—The Director of the Office
25 of Independent Security Oversight shall report directly to

1 the Congress with respect to those matters identified in
2 subsections (a) and (d), and the Secretary of Energy shall
3 not alter, modify, or otherwise change the substance of
4 any such report, nor shall the Secretary prevent, prohibit,
5 or delay any such report.

6 (f) CONGRESSIONAL TESTIMONY AND BRIEFINGS.—
7 The Director of the Office of Independent Security Over-
8 sight, whenever called to testify before any Committee of
9 Congress or to brief its Members or staff, shall provide
10 the Secretary of Energy with advance notice of the subject
11 matter of that testimony or briefing, but the Secretary
12 shall not alter, modify, or otherwise change the substance
13 of such testimony or briefing, or prevent, prohibit, or delay
14 such testimony or briefing.

○